IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE P.R.RAMAN
&
THE HONOURABLE MRS. JUSTICE K.HEMA

FRIDAY, THE 24TH AUGUST 2007 / 2ND BHADRA 1929

WP(Crl.).No. 171 of 2007(S)

PETITIONER:

JESSYYAMMA JOHN, VAYALINKAL, MOZHOOR PO,
MANJAMUTTOM, KOTTAYAM.

BY ADV. SRI.R.KRISHNA RAJ

RESPONDENTS:
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1. SABU JOHN, OLICKAL KIZHAKKETHIL,
MUNDUKOTTACKAL, VETTIPURAM, PATHANAMTHITTA.

2. MINI, OLICKAL KIZHAKKETHIL,
MUNDUKOTTACKAL, VETTIPURAM, PATHANAMTHITTA.

3. CIRCLE INSPECTOR OF POLICE,
PATHANAMTHITTA.

4. SUPERINTENDENT OF POLICE,
PATHANAMTHITTA.

BY ADV. SRI.MVS.NAMBOOTHIRY
GOVERNMENT PLEADER SRI.C.M.KAMMAPPU

THIS WRIT PETITION (CRIMINAL) HAVING BEEN FINALLY HEARD ON 24/08/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

W.P(CRL).171 OF 2007

APPENDIX

PETITIONER'S EXHIBITS:

EXHIBIT P1: copy of order in op.103/2005

/TRUE COPY/

PA TO JUDGE

P.R.RAMAN & K.HEMA,JJ.

W.P.(Crl).NO.171 OF 2007

Dated this the 24th day of August, 2007

JUDGMENT

Raman, J.

The petitioner herein is the first respondent in O.P(G&W).103 of 2005, on the file of the Family Court, Thiruvalla. That was an Original Petition filed by Sabu K. John the father of the child seeking for custody of the child. As per the settlement reached between the parties, the matter was disposed of by judgment dated 12th May, 2006. At the time when the Writ Petition was moved before this Court, there was no appeal filed against the said decree and judgment passed by the Family Court. As per the judgment of the Family Court, the child is to be in custody of the father with visitorial right to the petitioner. Admittedly, the petitioner was abroad. This Writ Petition was filed after the petitioner came to India on a short visit seeking custody of the child.

2. Considering the fact that the petitioner had come to India on a short visit and the remedy available to the petitioner to move the Family Court will not be effective efficacious remedy, we

entertained the Writ Petition and issued notice to the parties. We have also passed an interim direction, permitting the petitioner herein to have custody of the child temporarily for four days and directed the petitioner to produce her passport and other travel records before this Court. That was done.

2. When the matter came up for further consideration yesterday, it was submitted by learned counsel for the petitioner that the child was indisposed of and prayed that the matter may be taken up today. Accordingly, when the matter is taken up today the child is returned to the father. It is open to the petitioner to receive back the passport and other travel documents from the Registry and there will be a direction to the Registry to return the same after obtaining proper receipt today itself. The purpose in the Writ Petition is served and no further directions are called for. The Writ Petition is closed, without going into the merits of any other contentions raised and without prejudice to the rights of parties if any under law.

P.R.RAMAN, JUDGE

vgs. **K.HEMA, JUDGE**